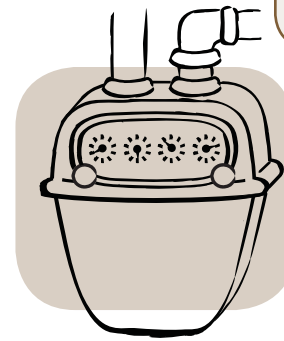




Sales Tax Information for Public Utilities

Utah State Tax Commission

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(801) 297-2200
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www.tax.utah.gov



If you need an accommodation under the Americans with Disabilities Act, contact the Tax Commission at (801) 297-3811, or TDD (801) 297-2020. Please allow three working days for a response.

Introduction

This publication provides tax information relating to public utilities. General sales and use tax information is available in Publication 25.

Tax Commission publications are reference tools. They are not all-inclusive and should not be used as legal references.

Tax laws may change due to legislative action. Changes to law will supersede any information in this publication.

Delivery Locations

The location where a transaction is completed is the location where a purchaser receives gas or electricity sold by a public utility. This is the customer's residential or business address. The location of the meter is normally the point of sale or use.

The Utah State Tax Commission (USTC) establishes delivery location outlets on sales tax accounts according to the information provided by the account holder. These outlets, along with applicable sales tax rates, are pre-printed on returns. These delivery location outlets are in addition to already-established brick and mortar outlets.

Public utilities report sales and use tax on form TC-61 and Schedules PS and PSD. Each jurisdiction into which service is delivered is identified as a delivery location on Schedule PS and appears as a distinct outlet. The public utility no longer needs to file an annual allocation table. Each public utility also fills out the Schedule PSD, reporting sales into every jurisdiction where service is provided.

- sales and use of motor fuel, special fuel and aviation fuel subject to Motor and Special Fuel tax;
- sales and use of gas and electricity that the municipality is prohibited from taxing under federal law, the U.S. Constitution or the Utah Constitution;
- gas and electricity brought into the state by a nonresident for the nonresident's personal use;
- sales or use of gas and electricity for any purpose other than use as a fuel or energy;
- sales or use of gas and electricity to a person if the primary use is for compounding or producing gas and electricity or a fuel subject to Motor and Special Fuel tax;
- sales of gas and electricity for use outside of the municipality imposing the tax;
- sales and use of gas and electricity purchased or stored in the state for resale; or,
- sales of an amount of electricity produced from a new wind, geothermal, biomass, or solar power energy source, as designated in the tariff by the Public Service Commission of Utah.

A municipality that generates electricity for customers within its borders may exempt customers who, as of July 1, 1997, were being supplied electrical energy by a supplier other than the municipality and whose needs cannot be supplied by the municipality.

The Tax Commission acts as an agent to receive and distribute tax revenues for the participating localities, unless the municipality is the energy supplier, or the energy supplier collects at least \$1 million in municipal energy sales and use taxes annually from its Utah customers. In those cases, the energy supplier pays the municipal energy sales and use taxes it collects directly to the municipality and files an annual information return (TC-61ER, Municipal Energy Sales and Use Tax Report) with the Tax Commission.

The delivered value is the arm's length sales price of the energy, including any transportation, freight, customer demand charges, service charges, or other costs incurred in obtaining the energy. The point of delivery of gas and electricity is normally the location of the meter.

Municipal Energy Sales and Use Tax

A municipality may levy Municipal Energy Sales and Use Tax on the sale or use of taxable energy (gas and electricity) within the municipality of up to 6 percent of the delivered value of the taxable energy. This is in addition to any local option sales and use taxes imposed by the municipality. The exemptions provided from the sales and use taxes are not applicable to the Municipal Energy Sales and Use Tax. However, municipalities must exempt:

A user of natural gas or electricity who has paid municipal energy sales and use tax to a supplier on some portion of the delivered value of the energy (as evidenced by a separate charge on the invoice from the supplier of municipal energy) may credit the taxes paid to the supplier against the tax it is required to remit to the Tax Commission. The tax is distributed to the municipality that levied the tax.

Taxpayers who pay the municipal energy sales and use tax on a monthly basis qualify for a one percent seller discount.

Administrative Rule R865-19S-103, Municipal Energy Sales and Use Tax, clarifies what entities are included in the statutory definition of energy supplier for purposes of collecting the municipal energy sales and use tax. It specifies that an energy supplier includes an entity that bills a consumer for transportation costs incurred in providing taxable energy to that consumer. Accordingly, an entity that has nexus with Utah and bills the end user for transportation costs incurred with the delivery of taxable energy must include on that billing the municipal energy sales and use tax calculated on those transportation costs. Some gas consumers buy energy from third-party suppliers, but another entity transports the gas. Therefore, the transporter charges municipal energy sales and use tax on the transportation, but not on the product.

Multi-Channel Audio and Video Service

Amounts paid or charged for multi-channel video or audio services provided by a multi-channel video or audio service provider within the state are taxable at the statewide rate of 6.25 percent. The provider or seller of multi-channel video and audio services is responsible for accounting, collecting, reporting and remitting the tax to the Tax Commission on form TC-64, Multi-Channel Video and Audio Service Tax Return.

A multi-channel video or audio service provider is defined as any person or group of persons that:

- provides multi-channel video or audio service and directly or indirectly owns a significant interest in the multi-channel video or audio service; or
- otherwise controls or is responsible, through any arrangement, for the management and operation of the multi-channel video or audio service.

A multi-channel video or audio service provider includes the following, except those specifically exempted by state or federal law:

- a cable operator,
- a SMATV operator,
- a CATV provider,
- a direct-to-home satellite service provider,
- a multi-point distribution provider,
- a DBS provider, and
- a MMDS provider.

Sales tax publications provide general guidance only. They do not contain all sales or use tax laws or rules. If you need additional information, call (801) 297-7705 or 1-800-662-4335, ext. 7705 (outside the Salt Lake area), or email taxmaster.utah.gov.